

Appendix Exhibit 30

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ONLEY, :
Plaintiff :
: :
: Civil Action No. 05-76B

3 ABBY B. CONLEY,
4 Plaintiff :
5 v. : Civil Action No. 05-76E
6 COUNTY OF ERIE, ERIE COUNTY :
7 OFFICE OF CHILDREN AND YOUTH, :
8 a/k/a ERIE COUNTY CHILD :
9 WELFARE SERVICE, RICHARD :
10 SCHENKER, individually and :
11 in his capacity as County :
12 Executive of Erie County, :
13 Pennsylvania, PETER CALLAN, :
14 individually and in his :
15 capacity as Erie County :
Director of Personnel, DEBRA :
LIEBEL, individually and in :
her capacity as Executive :
Director, Erie County Office :
of Children and Youth, a/k/a :
Erie County Child Welfare :
Service, and JOHN A. ONORATO, :
ESQUIRE, individually and in :
his capacity as Erie County :
Solicitor, :
Defendants :

Deposition of RICHARD A. VENDETTI, taken before
and by Janis L. Ferguson, Notary Public in and for
the Commonwealth of Pennsylvania, on Wednesday, March
20, 2006, commencing at 11:29 a.m., at the offices
of Knox McLaughlin Gornall & Sennett, PC, 120 West
10th Street, Erie, Pennsylvania 16501.

Reported by Janis L. Ferguson, RPR
Ferguson & Holdnack Reporting, Inc.

For the Plaintiff:
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821 State Street
Erie, PA 16501

Anthony Angelone, Esquire
Vendetti & Vendetti
3820 Liberty Street
Erie, PA 16509

For the County of Erie, Erie County Office of Children and Youth, a/k/a Erie County Child Welfare Service:
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For the Defendants Richard Schenker, Peter Callan, and Debra Liebel:
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1 MR. McNAIR: Before we begin the deposition, I'd
2 like to place an objection on the record.
3 On behalf of the Plaintiff, Abby B. Conley,
4 we object to this deposition, in that there -- it
5 has not been demonstrated that this witness has
6 any discoverable knowledge of any facts relating
7 to any issue properly pleaded in the case.

It is further our position that this deposition is being taken merely to intimidate, harass, and annoy both Mr. Vendetti and counsel for the Plaintiff. And we do intend to seek appropriate sanctions in the event that discoverable evidence is not obtained through this deposition. Thank you.

RICHARD A. VENDETTI, first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. LANZILLO:

Q. Mr. Vendetti, thank you for appearing today pursuant to subpoena. Would you start by giving us your full name for the record.

A. Richard A. Vendetti. Business address, 3820

1 Liberty Street, Erie, PA 16509. Phone number, 814-868-8541.

2 Q. And, Mr. Vendetti, am I correct that you are here
3 today pursuant to a written subpoena that was served upon
4 you at your office?

5 A. That's correct.

6 Q. And as part of that subpoena, there was a request
7 for documents, specifically any and all correspondence with
8 attachments from yourself to Judge Elizabeth Kelly,
9 including, but not limited to the correspondence to the
10 Judge dated July 26th, 2004, concerning [J.C.] and [J.C.].

11 A. That's correct.

12 Q. And my question is, do you have documents
13 responsive to that request?

14 A. I have one document; my letter to Judge Kelly
15 dated July 26th, 2004.

16 MR. LANZILLO: May I make a copy of that for all
17 counsel?

18 (Discussion held off the record.)

19 (Attorney Angelone enters deposition.)

20 (Vendetti Deposition Exhibit 1

21 marked for identification.)

22 Q. Mr. Vendetti, we have now marked as Exhibit 1 to
23 your deposition a letter dated July 26th, 2004 from yourself
24 to the Honorable Judge Elizabeth K. Kelly. Is that correct?

25 A. That's correct.

1 Q. Is this the only document that was responsive to
2 the duces tecum that was part of the subpoena that was
3 served upon you?

4 A. There was a second document, which I cannot
5 locate, and that is a reply document from the Judge.

6 Q. Do you recall the substance of that reply?
7 A. Probably dated within a week of my July 26th
8 letter. I recall it being a short paragraph, consisting of
9 two or three sentences, the subject of which was, I have
10 received your letter, I consider this an ex parte
11 communication, and I am sending it back to you. And she --
12 she sent -- she probably sent the letter back to me. And
13 then I did not put it in the file. I simply placed my
14 original letter that I had sent to her, along with her
15 responsive letter, in a stack, and I have -- I probably
16 discarded it some -- sometime later, after the matter was
17 resolved.

18 Q. Did you transmit any other correspondence or
19 documents to Judge Kelly concerning the [C.] proceeding,
20 other than Exhibit 1?

21 A. No.

22 Q. In what capacity did you author Exhibit 1?

23 A. A friend of the Court and also in prior
24 representation of Mr. and Mrs. [C.] When I refer to Mr. and
25 Mrs. [C.], I'm referring to the parents of young James [C.].

1 Q. And just for the record, would you state the names
2 of those two parents.

3 A. That would have been James [C.] -- I believe it's
4 Senior, and Patricia [C.], his wife.

5 Q. And were you actively representing James [C.],
6 Senior, and Patricia [C.] as of July 26th, 2004?

7 A. In other matters.

8 Q. But were you representing them in any respect to
9 the possible dependency proceedings at issue in this letter?

10 A. Just to give him advice as a friend. But I was
11 not representing him in court proceedings.

12 Q. Who was representing Mr. and Mrs. [C.] in these
13 proceedings?

14 A. I believe Attorney Gerald Villella.

15 Q. Do you know or have you ever represented Abby
16 Conley?

17 A. No.

18 Q. How did you become aware of the dependency
19 proceedings that are discussed in your letter of July 26th,
20 2004?

21 A. Mr. [C.] informed me of that.

22 Q. Did you discuss these proceedings with anyone
23 other than Mr. and Mrs. [C.]?

24 MR. MCNAIR: Are you asking for his work product?

25 MR. LANZILLO: I'm asking if he discussed these

1 proceedings with anyone other than Mr. and
2 Mrs. [C.]

3 A. Probably.

4 MR. MCNAIR: Okay. To the extent that your
5 question calls for disclosure of work product or
6 confidential communications, I would object.

7 A. Probably.

8 Q. With whom did you discuss this matter?

9 A. I can't go back that far. Probably they were
10 seeking representation. I was not doing custody work
11 anymore at that time. And I had been in that field for many
12 years, grew tired of it after a while. Probably Amy Jones
13 in our office, who declined to represent them. We knew this
14 was going to be a very exacerbated, difficult issue. Amy
15 Jones would have been one. She declined to represent them.
16 Substantively, that would have been the only person I
17 probably talked to about this foster placement of the
18 children.

19 Q. Did you discuss this matter with Attorney Anthony
20 Angelone at or about the time of this letter?

21 A. Probably not.

22 Q. You have no recollection of doing so?

23 A. No.

24 Q. Have you ever met Abby Conley?

25 A. No.

1 Q. Did you discuss this matter with Attorney Jerry
2 Villella?
3 A. Yes.
4 Q. When did that discussion occur?
5 A. I cannot recall.
6 Q. What do you recall in terms of the substance of
7 that discussion?
8 A. Probably requested an update. This was a very
9 protracted proceeding and continued for over a two-year
10 period. He would discuss various stages of the appeal with
11 me. I really can't recall that far back. A lot of it was
12 in the paper, so a lot of it was common knowledge.
13 Q. Did you supply any documentation to Attorney
14 Villella?
15 A. No.
16 Q. Did you ever have in your possession any
17 memorandum authored by Abby Conley or any other employee of
18 the Office of Children and Youth regarding the [C.]
19 children?
20 A. I may have.
21 Q. When you say you may have, what are you thinking
22 that you may have had in your possession?
23 A. A memorandum; court proceeding.
24 Q. And do you recall the substance of that
25 memorandum?

1 A. It was a case summary.
2 Q. And do you recall the author of the case summary?
3 A. No.
4 Q. Do you know whether it was Abby Conley?
5 A. It was not Abby Conley.
6 Q. Who provided the case summary to you?
7 A. Mr. [C].
8 Q. Did he tell you where he received it; how he
9 obtained it?
10 A. Probably from his son.
11 MR. MCNAIR: It's privileged.
12 Q. You said probably from his son?
13 A. (Witness nods head.)
14 Q. Do you have any knowledge concerning how Mr. --
15 how the son obtained a copy of that memo?
16 A. No.
17 MR. MCNAIR: Again, it's privileged.
18 Mr. Lanzillo, do you believe you have any
19 questions that relate to any issue that's been
20 pleaded in this case?
21 MR. LANZILLO: Every --
22 MR. MCNAIR: I would ask you to get to those
23 questions, rather than the [C.] case, which is not
24 at issue in this court at this time.
25 MR. LANZILLO: And my practice is not to respond

1 to those types of comments. So I'm going to ask
2 the questions I see fit to ask.
3 Those are all the questions that I have.
4 MR. JOYAL: I have some questions, Mr. Vendetti.
5 THE WITNESS: Um-hum.
6
7 CROSS-EXAMINATION
8 BY MR. JOYAL:
9
10 Q. In your letter, you speak of Attorney Cauley from
11 OCY, and you allege statements or things made by him. I
12 presume these were made -- you know, these statements were
13 obtained in the course of the court --
14 A. The court proceeding. Yeah, um-hum.
15 Q. You got that information. Did you get that as
16 well from Mr. [C.], Senior?
17 MR. MCNAIR: Objection. Privileged and relevance.
18 A. Mr. [C.] attended most of the dependency hearings
19 in front of the Judge.
20 Q. How many --
21 A. And those assertions must have been made in court.
22 Q. How many years prior to July 26th of 2004 had you
23 been an active member of the bar in Pennsylvania?
24 MR. MCNAIR: Objection. Relevance.
25 A. Well, I'm admitted in March of '71. So that would

1 have been a 33-year practitioner.
2 Q. 33 years. And you said that you had experience in
3 the past in child-welfare-type laws. Is that correct?
4 A. You have to speak up.
5 Q. Represented families in dependency proceedings --
6 A. Did a lot of domestic.
7 Q. -- and terminations?
8 A. Um-hum.
9 Q. Can you tell me, off the top of your head, how
10 many times you would have written a letter such as this to a
11 Judge, when you weren't actively participating in a case.
12 A. Well, I can't think of another one. Probably I
13 may have written one or two letters, but I can't remember
14 what case.
15 Q. And do you have any idea as to whether or not
16 Judge Kelly read your letter?
17 A. I assume she read it, because she responded to it.
18 But --
19 Q. By sending it back.
20 A. Yeah, by sending it back. So maybe she did not
21 read it.
22 Q. Okay. Would it be fair to say that you did not
23 have a very high opinion of Mr. Cauley?
24 A. I did prior to this hearing. I feel he was a very
25 well-respected attorney and a good attorney and a good

1 advocate, until this proceeding. And then my view of Mr.
2 Cauley changed.

3 Q. And that was based on information that had been
4 transmitted to you by one of your former clients?

5 A. The newspaper, the former client, other attorneys.

6 Q. Well, what was in the newspaper about this case
7 prior to July 28th of 2004 that you can recall would have --

8 A. I can't. But I -- I -- I think it was in the
9 newspaper.

10 Q. Well, would it not be normal prior to a certain
11 order being issued by the Court that there would not be
12 newspaper reporters in dependency hearings? Those were
13 closed, were they not, under the --

14 A. They are all closed.

15 Q. So how would this information have been in the
16 newspaper prior to July 28th, 2004?

17 A. Maybe it was not in the newspaper.

18 Q. So that would have been information that was
19 transmitted to you through other sources.

20 A. Through Mr. [C.].

21 Q. All right. And you say Mr. Villella gave you --
22 apparently spoke with you prior -- was it prior to your
23 writing this letter or afterwards?

24 A. Boy, I can't recall.

25 Q. Did he tell you or transmit any information

1 concerning conversations that he may have had with Abby
2 Conley about documents that she had authored?

3 A. No.

4 Q. And when you say you saw this case summary that
5 had been provided by the younger Mr. [C.], did you see a
6 signature on it?

7 A. See whose signature?

8 Q. Any signature.

9 A. I saw a signature on the bottom, I recall, of Sue
10 Deveney, which I believe was the director.

11 Q. Do you know whether it was a case summary of
12 visits?

13 A. Whether it was a what?

14 Q. Case summary that included visits.

15 A. Yes.

16 Q. Okay. Did you see any other signature on that --

17 A. Yes.

18 Q. -- such as Abby Conley's?

19 A. No, I didn't see Abby Conley's.

20 Q. Who else did you see?

21 A. I can't tell you. I can't recall.

22 Q. You didn't keep the document?

23 A. I did keep the document.

24 Q. Okay. Where is the document?

25 A. I don't have it with me.

1 Q. Was that attached to the --
2 A. Letter to Judge Kelly?
3 Q. -- letter to the Judge?
4 A. Not at all.
5 Q. But you do have a copy of the document in your
6 office?

7 A. I do.

8 Q. Okay. Did you keep the document at the request of
9 Mr. [C.], Junior?

10 A. I -- I just kept the document because it was
11 handed to me and it was pertinent to the case.

12 Q. I see. You had never -- you said you had maybe
13 written one letter such as this before in your practice?

14 A. I may have, I may not have.

15 Q. This is not something you would normally do, would
16 you? Communicate with the Court about an ongoing
17 matter that you -- if you were representing someone, you
18 certainly wouldn't do it without copies to counsel; is that
19 correct?

20 A. Correct.

21 Q. What is it that prompted you to do it in this
22 case?

23 A. Because Mr. [C.] was concerned about the
24 possibility of losing his grandchildren to an IVT.

25 Q. I see. Did Mr. [C.] tell you that this was -- the

1 hearing that was being held on the 28th was a change in plan
2 hearing; that it was a hearing to see whether or not OCY
3 could change their plan from family reunification to IVT?

4 A. There's nothing in here that refers to the 28th.

5 Q. Well, the hearing was held -- I will tell you that
6 the hearing was held on the 28th of July, which was the date
7 of Judge Kelly's letter back to you returning this stuff.

8 A. Okay.

9 Q. Did you know that this was a hearing just for OCY
10 to go into the court and get permission to change the plan
11 for the children from --

12 A. I believe I did.

13 Q. And where did you get that information from?

14 A. Probably from Mr. [C.].

15 Q. Would you be kind enough to get that document for
16 us and provide it to Mr. Lanzillo so that we can check to
17 see if Abby Conley's signature may be on it?

18 A. No.

19 Q. And are you going to assert a privilege in that?

20 A. Um-hum.

21 Q. I think we'll probably just reserve our rights,
22 considering what you told us earlier, that you were not
23 representing Mr. [C.] at that point and had declined
24 representation.

25 A. I can tell you that Abby Conley did not sign it.

1 Q. Okay. Can you tell me what the document said.
 2 Did it have any -- do you recall whether or not it said that
 3 Mr. [C.], Junior or Miss [S.] demonstrated exceptional
 4 parenting skills?

5 A. It did not.

6 Q. Did it say anything negative about either one of
 7 the parents?

8 A. It said they were immature parents, was the
 9 conclusion.

10 Q. That was the end of the report?

11 A. The -- somewhere in the report. It's maybe on
 12 the -- one of the last pages. And then it recommends that
 13 the plan be shifted to an involuntary termination of
 14 parental rights.

15 Q. And was there anything in the report that you know
 16 of that related to observations of visiting by both parents?

17 A. Probably five or six pages or more of supervised
 18 visitation rights.

19 Q. And do you know who was the person that supervised
 20 the visits or helped supervise the visits?

21 A. I do not. There's various caseworkers involved,
 22 and Abby Conley is mentioned in two paragraphs.

23 Q. All right.

24 A. As supervising visitation with the natural -- the
 25 biological mother and biological father.

1 Q. As you sit here today, do you have any
 2 recollection of either seeing or being told of a draft Court
 3 summary that had been prepared by Abby Conley and allegedly
 4 changed?

5 A. No.

6 Q. Would you think, based upon your many years of
 7 experience in this type of law, that someone having a copy
 8 of the Court summary would have gotten that from somewhere
 9 other than the Court?

10 A. I think it was probably made available to the
 11 parents.

12 Q. Do you know that for sure?

13 A. I do not.

14 MR. JOYAL: I want to suspend at this point, Rich,
 15 just for the purpose of making sure that
 16 Mr. Vendetti -- and maybe he can have it faxed
 17 over.

18 Mr. Vendetti, I want to give you the
 19 opportunity to take a look at that document to
 20 make sure that Abby Conley's signature is not on
 21 it and to get a date for me.

22 MR. MCNAIR: I think that's an unfair imposition.
 23 You can get that document from your client.

24 MR. JOYAL: I don't know what document he has, Mr.
 25 McNair, and I don't know what objection you're

1 raising, since you don't represent him.

2 MR. MCNAIR: Again --

3 MR. JOYAL: I'm not trying to be unfair --

4 MR. MCNAIR: Again --

5 MR. JOYAL: There is a document --

6 MR. MCNAIR: -- there has yet to be a single
 7 question that has anything but the most tangential
 8 relevance to the issues in this case. Again, this
 9 is simply harassment and intimidation. It's a
 10 waste of our time, and it's a waste of the
 11 Plaintiff's resources.

12 BY MR. JOYAL:

13 Q. Mr. Vendetti, would you do that for us?

14 A. I am willing to fax to you the signature page. I
 15 am willing to fax to you the page containing the supervised
 16 visitation at which Abby Conley was present. And those are
 17 the only two pages that are probably pertinent. If you're
 18 concerned about who signed it, I can fax the signature page
 19 to you.

20 Q. Well, let me tell you that one of the issues, if
 21 you don't know it, in this case is an allegation that Abby
 22 Conley was retaliated against because she made a report
 23 during the July 28th, 2004 hearing that her document had
 24 been altered. There has also been testimony and there will
 25 be testimony, should the case go to trial, that that

1 document, which was confidential, had been provided by Abby
 2 Conley to a client of hers and to Mr. Villella. And so we
 3 don't know at this point --

4 A. I don't have that document.

5 Q. Okay.

6 MR. LANZILLO: Could I interject for just a
 7 moment. In terms of the concern of privilege,
 8 Mr. Vendetti, I have not seen the document, but it
 9 sounds to me that it was reviewed and executed by
 10 members of OCY. And I would respectfully submit
 11 to you that the privilege, even if there had been
 12 an attorney/client relationship -- which I
 13 understand did not exist at the time. But even if
 14 there had been one, I don't believe the privilege
 15 would attach to that document. It's a third-party
 16 document that's already been discussed here.

17 I think what we are trying to do, what
 18 Mr. Joyal and I are trying to ascertain, is
 19 exactly what document we're talking about.
 20 Chances are we have seen it before, but we would
 21 sure like to confirm that and ascertain not only
 22 who signed it, but also the substance of it, so we
 23 can match it up with issues in the case.
 24 MR. JOYAL: As well, and I'd like to find out the
 25 date that it would have been made available to

1 someone, because I would believe that depending
 2 upon when it got there -- and not to you,
 3 Mr. Vendetti --

4 THE WITNESS: I don't know what date it was
 5 disseminated. I have the date of the document.

6 MR. JOYAL: Well, that's what we would -- I mean,
 7 we could presume that --

8 MR. LANZILLO: Could we make that request? Do you
 9 mind? And certainly give you an opportunity to
 10 look at it before you distributed it to anyone.

11 THE WITNESS: I'm still talking about Pages 1,
 12 probably 7 or 8, and the last page.

13 MR. LANZILLO: Could I ask you to have the entire
 14 document faxed here to your attention, so at least
 15 if there were some follow-up questions, we could
 16 at least discuss whether the other pages are
 17 appropriate for production? In other words, I'm
 18 not going to grab it off the fax machine. You're
 19 going to be the first person to touch it.

20 THE WITNESS: That was one concern. But my
 21 secretary is probably gone to lunch now, so.

22 (Discussion held off the record.)

23 (Recess held from 11:59 a.m. till 12:15 p.m.)

24 BY MR. JOYAL:

25 Q. Have you reviewed the document, sir?

1 A. Um-hum.

2 Q. And are you willing to show us the document today?

3 A. Didn't hear you, sir.

4 Q. Are you willing to show us the document today?

5 A. I am willing to show you the pertinent parts of
 6 the document.

7 Q. Would you please tell us what the privilege that
 8 you're asserting is.

9 A. Mr. [C.] was my client. Now, I was not
 10 representing him in court, but he was still my client, and
 11 he would confide -- we would confer, and we would confide in
 12 me quite often through this entire proceeding. More than a
 13 client. A friend. So he trusted me. I consider him my
 14 client, even though I was not representing him in court
 15 proceedings. And I still think that the -- our disclosures
 16 to each other are still confidential in that regard.

17 Q. Okay. I'm not asking you, sir, to tell me what he
 18 talked to you about or you talked to him about. You are
 19 holding what, I presume, is a document authored by the
 20 Office of Children and Youth. Is that correct?

21 A. Correct.

22 Q. So the reality would be, I presume you would
 23 agree, that that's an OCY document. That's not a document
 24 that was authored by your client to you, nor was it a
 25 document authored by you to your client. Is that correct?

1 A. That's correct, sir.

2 Q. So then, again, I want you to tell me what
 3 privilege holds with that document.

4 A. I don't mean to ask you a question in return. I
 5 know that's not the purpose here. But do I understand you
 6 do not have this document?

7 Q. I don't know what the document is, sir, so why
 8 don't you give me the date of the document.

9 A. It's dated April 26th. It's a Court summary
 10 concerning [J.C.] and [J.C.]. I gave you the date.
 11 Concerning a Court summary -- a permanency hearing summary.

12 Q. That's dated April 26th, 2004?

13 A. That's correct.

14 Q. Okay. And you told us earlier that Abby Conley
 15 was mentioned in two paragraphs.

16 A. I believe so.

17 Q. Okay. Do you have any knowledge as to when you
 18 got that document?

19 A. I do not know exactly when I got the document,
 20 except it would have been sometime -- sometime prior to my
 21 letter of July 26th.

22 Q. Do you know whether or not there was ever a
 23 hearing held between April 26th and July 28th in this case?

24 A. I do not.

25 Q. Do you know whether there was a hearing held

1 between April 26th and July 24th in this case?

2 A. I do not.

3 Q. Based upon your experience, would it be fair to
 4 say that Court summaries are not submitted until the date of
 5 the hearing or shortly before the hearing?

6 A. That's probably correct.

7 Q. I'm going to represent to you, sir, that there was
 8 not a hearing between April 19th and July 28th in this case.
 9 If that document was in the possession of your client, would
 10 you believe that it had been given to him by someone other
 11 than his counsel?

12 MR. MCNAIR: Objection. Argumentative. Calls for
 13 speculation.

14 Q. Do you understand my --

15 A. I don't know that.

16 Q. You don't know it. In your experience doing this
 17 type of domestic work, had you ever received Court summaries
 18 directly from OCY?

19 A. Yes, I have.

20 Q. And were they always provided to you shortly
 21 before your hearings?

22 A. Generally.

23 Q. Did you ever get one from a social worker, as
 24 opposed to the lawyer that was representing OCY in the case?

25 A. I can't -- I truthfully can't recall.

1 MR. MCNAIR: Are you representing that the lawyer
 2 sends those out?

3 MR. JOYAL: I'm not representing anything, Mr.
 4 McNair. If you have an objection, put it on the
 5 record.

6 MR. MCNAIR: I just don't understand your
 7 question, that's all.

8 BY MR. JOYAL:

9 Q. Did you speak to any of the other lawyers that
 10 were representing any of the parties in this case prior to
 11 July 26th of 2004?

12 A. Probably only Jerry Villella.

13 Q. Do you have a recollection as to whether or not
 14 Mr. Villella told you that he had spoken directly with Abby
 15 Conley in this case?

16 A. No.

17 Q. In your letter to Judge Kelly, on the second page,
 18 third paragraph down, you say, "I can vouch for the family
 19 stability of James and Patricia [C.]. I can state with
 20 certainty that they had nothing to do with the allegations
 21 of abuse and the actual perpetration of abuse. I believe
 22 testimony revealed one child was not abused at all. The
 23 other infant was probably injured by the numerous young
 24 teenage caregivers that were handling her within the first
 25 three months of birth."

1 Could you share with me how you came to the
 2 conclusion stated in that last sentence, that the other
 3 infant was probably injured by?

4 A. When -- when the children were first declared
 5 dependent, I represented Mr. [C.] at the initial hearing
 6 that would have been within two months of birth, which I
 7 think is when this occurred. And I want to say it was
 8 November or December. And, again, my memory doesn't serve
 9 me well, but I'll do the best I can.

10 And I was with him, with Mr. and Mrs. [C.] and the
 11 son, James, Junior, and the mother at the very initial -- I
 12 want to call it an intake hearing, but I don't think it's
 13 called an intake hearing. It's probably called a dependency
 14 hearing. It may have been sometime in December of '02,
 15 which is when this began. And there was a lot of discussion
 16 as to how this occurred, as to how the alleged fracture of
 17 the humerus -- if it was the humerus -- occurred. And I
 18 remember the mother, which would have been Miss [S.] and the
 19 father, young -- the young [C.] boy talking about the
 20 various young teenage caregivers that were in the house.
 21 Having twins, of course, the job is daunting. And there was
 22 discussion as to the babies would go from one caregiver to
 23 another teenager to another teenager. And very frankly, the
 24 young children were being handled or mishandled by a lot of
 25 young adults; 18, 19 years of age, that probably had no

1 knowledge as to how to really care for a baby. And this was
 2 a general discussion. And this was very early on in the
 3 case.

4 And I went that far, and I knew it was -- and I
 5 was getting very busy at the time, and I said -- and I was,
 6 very frankly, too close to James, Junior to do all this
 7 work. That's when I had talked about it with Amy Jones.

8 That's why that substance is in that paragraph,
 9 because we discussed it at the intake hearing.

10 Q. Fair enough. Fair enough. This letter that you
 11 wrote to Judge Kelly on July 26th was, in your view, I
 12 presume, a letter to educate her, as opposed to a letter to
 13 try to influence her?

14 A. It was a letter -- the letter speaks for itself --
 15 simply to tell her that rather than opt for an IVT or a
 16 termination hearing, that there was an alternative, and that
 17 the -- the paternal grandparents were very loving, caring,
 18 substantive individuals that could care for their
 19 grandchildren. And a letter to inform her that she should
 20 not take the harsh measures of terminating parental rights,
 21 which OCY had done liberally in the past, and I was fearful
 22 of that.

23 Q. But you would agree with me, would you not, that
 24 although OCY would petition for involuntary termination, it
 25 was the Court that ultimately made the decision as to

1 whether those rights were terminated?

2 A. That's correct.

3 Q. And you do know that subsequent to July 28th,
 4 Judge Kelly did not allow for the change of plan for these
 5 children; is that correct?

6 A. (No response.)

7 Q. Did you know that Judge Kelly did not --

8 A. Mr. Joyal, was that the hearing date -- is that
 9 the --

10 Q. July 28th, sir. Two days after this letter was
 11 written. You do know that Judge Kelly did not grant the
 12 change of plan petition; is that correct?

13 A. No, I don't know. I don't know when she granted
 14 the change of plan. She did -- she did change OCY's
 15 proposed plan.

16 Q. Well, what is your understanding of the change of
 17 plan?

18 A. The plan, as proposed by OCY, was that the
 19 children were immature, the -- let me correct that. The
 20 parents were immature and that the plan should be one of
 21 termination of parental rights. At some point Judge Kelly
 22 changed that and ordered a reunification between parents and
 23 children.

24 Q. Okay. Now, you --

25 A. I don't know when that was.

1 Q. You knew that from reviewing that April 26th
2 report.
3 A. No, not at all. I didn't know that.
4 Q. Well, when did you know that the OCY plan was for
5 involuntary termination?
6 A. Oh, from this (indicating).
7 Q. From that. That's what I meant. The April 26th
8 memorandum --
9 A. Yes.
10 Q. -- to the Court. The Court summary.
11 A. Yes.
12 Q. And did you know, in reviewing that Court summary,
13 that the original plan had been for family reunification?
14 A. Probably I was told by Mr. [C.]
15 Q. Okay. And that that -- that was in support of OCY
16 going in to ask the Court to change that reunification plan
17 to one for adoption. Did you know that?
18 A. Correct.
19 Q. So in reality, sir, you may have misspoken when
20 you said that Judge Kelly changed the plan from IVT. Judge
21 Kelly never changed the plan. She just refused to allow the
22 plan for involuntary termination to go forward.
23 A. That's correct.
24 MR. MCNAIR: Objection. Argumentative.
25 Q. This will be my last question for you, sir,

1 because I know you have someplace you need to go, and I
2 appreciate you accommodating us on such short notice.
3 A. You're welcome.
4 Q. It is fair to say, then, that the information you
5 received from your client, Mr. [C.], Senior, that was
6 contained in that report was one of the things that prompted
7 you to write this letter to Judge Kelly suggesting that IVT
8 was not an appropriate --
9 A. Resolution.
10 Q. -- disposition or resolution; is that right?
11 A. Disposition. That's correct.
12 MR. JOYAL: I don't have anything else. Thank
13 you, sir.
14 MR. LANZILLO: Nothing further.
15 MR. MCNAIR: I have no further questions.
16 THE WITNESS: To give you the name of the person
17 who signed the report, it's Michelle Schetter,
18 S-C-H-E-T-T-E-R, caseworker.
19 MR. JOYAL: All right.
20 MR. LANZILLO: Mr. Vendetti, actually, let me --
21 for record purposes, what is the length of that
22 document? How many pages?
23 THE WITNESS: The document is 23 pages. It's
24 reviewed and affirmed by Sue Deveney two years ago
25 to the day; 4/20/04. I'm sorry, this is 3/20.

1 4/20/04.
2 MR. LANZILLO: Are there any fax transmittal lines
3 on that document? Does it show -- indicate that
4 it was faxed to anyone?
5 MR. JOYAL: Except for today.
6 THE WITNESS: Oh, faxed to anyone?
7 MR. LANZILLO: Except for today, of course.
8 THE WITNESS: No. No, hum-um.
9 MR. LANZILLO: Are there any handwritten notes on
10 the document?
11 THE WITNESS: Mine.
12 MR. LANZILLO: When would you have made the notes
13 on the document?
14 THE WITNESS: Probably in my review of the
15 document, just my own comments.
16 MR. LANZILLO: Thank you.
17 MR. MCNAIR: Mr. Lanzillo, will you be kind enough
18 to provide me with the April 26th Court summary as
19 it was originally filed?
20 MR. LANZILLO: Sure.
21 (Discussion held off the record.)
22 MR. LANZILLO: I would just renew the request for
23 the document. Frankly, I don't see any claim of
24 privilege here, and it may actually save us time
25 and trouble if we could simply review the

1 document.
2 THE WITNESS: How about if I -- how about if I
3 read you the paragraph involving Abby Conley? Or
4 give it to you?
5 MR. LANZILLO: Unfortunately, that -- I can't
6 decide whether -- determine whether that would be
7 adequate or not unless I see the substance of the
8 entire document.
9 MR. MCNAIR: Why don't we do this: Why don't you
10 show him the file document that you have and ask
11 him if apart from his handwritten notes there's
12 any changes. I think that his handwritten notes
13 would constitute his work product, which would not
14 be subject to disclosure. And I think that's
15 probably the basis of his objection.
16 MR. JOYAL: Well, that wouldn't satisfy me.
17 MR. MCNAIR: I know. I don't intend to satisfy
18 you, Mr. Joyal.
19 MR. JOYAL: Well, you don't, Mr. McNair.
20 MR. MCNAIR: I'm merely proposing a workable
21 solution.
22 MR. LANZILLO: It's a moot point for me.
23 Unfortunately, as everyone knows, I'm relatively
24 new to the case, and if I were to put my hand on
25 that document, I simply couldn't do it in any

reasonable time frame.
 (Discussion held off the record.)
THE WITNESS: For my purposes, this is all moot.
 I know this involves Abby Conley, but for my purposes, you know, the reunification order was -- the reunification plan was implemented by Judge Kelly, so this --
MR. McNAIR: Apparently they are still mad about it.
MR. LANZILLO: For the record, Mr. Vendetti has declined to provide us with a copy of the document. We have reserved our rights.

Mr. Vendetti, thank you for coming in.

(Deposition concluded at 12:32 p.m., and signature of the deponent was waived.)

C E R T I F I C A T I O N

I, Janis L. Ferguson, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes in the above-captioned matter.

Janis L. Ferguson
 Registered Professional Reporter

Dated: 3-27-06

Commonwealth of Pennsylvania
 NOTARIAL SEAL
 JANIS L. FERGUSON, Notary Public
 City of Erie, County of Erie
 My Commission Expires January 19, 2010

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July 26, 2004

Honorable Judge Elizabeth K. Kelly
Erie County Courthouse, Room 215
140 West Sixth Street
Erie, PA 16501

*Re: J[REDACTED]a C[REDACTED]
J[REDACTED] C[REDACTED]*

Dear Judge Kelley:

I am writing to you as a friend of the court. This letter concerns the matter of the detention and disposition of the two grandchildren of James A. and Patricia L. Casella who currently reside at 1735 Emery Drive. The twins, J[REDACTED]a and J[REDACTED] Casella, were born on September 12, 2002, I believe prematurely, to J[REDACTED] Sh[REDACTED] and J[REDACTED] Casella, both young adults. You have much information in front of you concerning the charges of child abuse, in which the court adjudicated the children dependent, and the children were subsequently placed in foster care in early 2003.

There have been numerous appeals filed by Attorneys James Lucht and Jerry Villella representing both the biological parents and J[REDACTED] and Patricia Casella, and I believe the matter is now in front of you for disposition.

I am writing as a friend of the Court because I have known J[REDACTED] Casella for over forty years, and have also been acquainted with his wife for approximately 25 years. Attorney Michael Cauley has made extensive allegations of abuse against the paternal grandparents, including among other things, that they could not be ruled out as possible abusers of the two infants. Pleadings have become extensive in this matter.

In the past I have done extensive IVT work involving placement of minor children, termination of parental rights on the part of fathers, which ultimately lead to many adoption hearings in front of Judges Nygaard, Dwyer, and Fischer. It appears the course of these two young children is now heading toward a similar disastrous fate of being abused (perpetrators unknown), being adjudicated dependant, being placed in foster care for over a year, and ultimately being in your Court for a dispositional hearing which could very well result in a termination of parental rights. I feel that would be a harsh and unjust remedy in the instant case.



Vendetti #1

Attorney Michael Cauley, Counsel for OCY has eluded and inferred that the paternal grandparents could not be ruled out as possible abusers. That inference and allegation is quite frankly preposterous. I understand J. [REDACTED] and P. [REDACTED] Casella have corresponded with you requesting kinship care for their granddaughters, and it would appear this is a proper, logical, legal, and fair resolution to the disposition of this case. I have known J. [REDACTED] for forty years and he has raised two children, and his wife has also raised two children with a total of five grandchildren. He is employed as the Assistant Director for the City of Erie Public Works Department, and has been a supervisor and engineer in the Engineering Department of the City of Erie for 25 years. I have been acquainted with J. [REDACTED] and P. [REDACTED] for dozens of social engagements, and to allege that he cannot be ruled out as a possible abuser and therefore should be denied kinship care of his grandchildren is ridiculous.

The Court is well aware that young mothers and fathers ages 20 or 21 often times struggle in caring for a child born out of wedlock because of their immaturity. The Court and the legal profession are also well aware that grandparents often times make better parents than their own children who are the biological parents. There is simply more love on the part of the grandparents, and more emotional and financial maturity that young biological parents simply do not possess because of their age.

I can vouch for the family stability of J. [REDACTED] and P. [REDACTED] Casella, and can state with certainty they had nothing to do with the allegations of abuse and the actual perpetration of abuse. I believe testimony revealed one child was not abused at all. The other infant was probably injured by the numerous young teenage care givers that were handling her within the first three months of birth.

A hearing for the involuntary termination of parental rights by OCY is a drastic measure whereby all ties between the infant twins and the biological parents and grandparents is suddenly severed, with no further right or recourse on the part of the grandparents. Said grandparents thereby loose the love and affection they can bestow upon their own biological grandchildren in the future. In the past, I believe OCY has been too quick and harsh in ordering IVT's for many parents who do not deserve to lose their children. The C. [REDACTED] have offered to accept the children in their home as if they were their own children, and I would suggest and plead that the Court consider and approve the grandparents request for kinship care. Mr and Mrs C. [REDACTED] would welcome the opportunity to bestow love and affection upon their own grandchildren and would strictly comply with any Order the Court may impose in mandating supervised visitation with the biological parents while the grandchildren are in their custodial care. I trust the court will give serious consideration to this request for kinship care by Mr and Mrs C. [REDACTED] who dearly love and cherish their twin granddaughters. Thanking you, I remain

Respectfully yours,

VENDETTI & VENDETTI


Richard A. Vendetti, Esq.